

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DWIGHT JERICE BREWER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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Case No. 11-20537

Civil No. 14-11823

Honorable John Corbett O'Meara

**ORDER DENYING CERTIFICATE OF APPEALABILITY**

On February 10, 2015, petitioner Dwight Jerice Brewer filed notice of appeal of this court's January 27, 2015 order denying his motion for reconsideration of the court's August 8, 2014 order denying Brewer's 28 U.S.C. § 2255 motion to vacate his sentence. In response to his notice of appeal, this court must determine whether to issue a certificate of appealability.

In a habeas corpus proceeding in which the detention complained of arises from process issued by a state court, or in a 28 U.S.C. § 2255 proceeding, the applicant cannot take an appeal unless a circuit justice or a circuit or district judge issues a certificate of appealability under 28 U.S.C. § 2253(c). If an applicant files a notice of appeal, the district judge who rendered the judgment must either issue a certificate of appealability or state why a certificate should not issue.

Fed. R. App. P. 22(b)(1). The court may issue a certificate of appealability if the petitioner has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2).

[T]he petitioner need not show that he should prevail on the merits. He has already failed in that endeavor. Rather, he must demonstrate that the issues are debatable among jurists of reason; that the court could resolve the issues [in a different manner] or that the questions are 'adequate to deserve encouragement to proceed further.'

Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983); Hence v. Smith, 49 F. Supp. 2d 547, 549 (E.D. Mich. 1999).

The court finds that petitioner Brewer has failed to make a substantial showing of the denial of a constitutional right. Therefore, it is hereby **ORDERED** that the request for a certificate of appealability is **DENIED**.

s/John Corbett O'Meara  
United States District Judge

Date: October 8, 2015

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, October 8, 2015, using the ECF system and/or ordinary mail.

s/William Barkholz  
Case Manager